

AMENDED IN ASSEMBLY JULY 7, 1999

AMENDED IN SENATE APRIL 20, 1999

SENATE BILL

No. 433

Introduced by Senator Johnson

February 16, 1999

An act to amend Section 3111 of, and to add Section 3110.5 to, the Family Code, relating to family law.

LEGISLATIVE COUNSEL'S DIGEST

SB 433, as amended, Johnson. Child custody.

Existing law authorizes the court to appoint an investigator to conduct a child custody investigation. Existing law requires court-appointed investigators to have specified domestic violence training, and requires the Judicial Council to draft a statewide rule of court requiring domestic violence training for all court-appointed persons who evaluate or investigate child custody matters.

This bill would revise these provisions to *authorize the court to appoint a child custody evaluator in any proceeding involving child custody or visitation and to require court-connected and private child custody evaluators to complete a described domestic violence training program and comply with other requirements. It would require the Judicial Council to formulate a statewide rule of court by January 1, 2002, that establishes education, experience, and training,—and—license requirements for all child custody evaluators and requires child custody evaluators to declare under penalty of perjury that they are currently licensed, if*

applicable, and meet all ~~other~~ requirements of the rule. By expanding the crime of perjury, the bill would create a state-mandated local program.

The bill would also require, on and after January 1, 2005, *except in specified counties*, that each child custody evaluator be a licensed physician who ~~devotes a substantial portion of his or her time to the practice of psychiatry~~ *is a board certified psychiatrist*, a psychologist, a marriage and family therapist, ~~or a clinical social worker, or to a court-connected evaluator,~~ *as specified*, or be proposed by or stipulated to by the parties and consented to by the court.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 3110.5 is added to the Family
2 Code, to read:

3 3110.5. (a) No person shall be a court-connected or
4 private child custody evaluator under this chapter unless
5 the person has completed the domestic violence training
6 program described in Section 1816 and has complied with
7 Rules 1257.3 and 1257.7 of the California Rules of Court.

8 (b) (1) On or before January 1, 2002, the Judicial
9 Council shall formulate a statewide rule of court that
10 establishes education, ~~training, and license~~ *experience*,
11 *and training* requirements for all child custody evaluators
12 appointed pursuant to this chapter, Section 730 of the
13 Evidence Code, or Section 2032 of the Code of Civil
14 Procedure. ~~The~~

15 (2) *The* rule shall require a child custody evaluator to
16 declare under penalty of perjury ~~that he or she possesses~~
17 ~~a license in good standing and meets all of the education,~~
18 ~~training, and license~~ *perjury that he or she meets all of the*

education, experience, and training requirements specified in the rule and, if applicable, possesses a license in good standing. The Judicial Council shall establish forms to implement this section. The rule ~~may permit courts, for good cause and under qualification procedures and guidelines adopted by the Judicial Council, to appoint an evaluator who does not meet the requirements of this section.~~ The shall permit court-connected evaluators to conduct evaluations if they meet all of the qualifications established by the Judicial Council. The education, experience, and training requirements to be specified for court-connected evaluators shall include, but shall not be limited to, knowledge of the psychological and developmental needs of children and parent-child relationships.

(3) The rule shall require all evaluators to utilize comparable interview and testing procedures for all parties that are consistent with general accepted clinical, forensic, scientific, or medical standards. The rule shall also require evaluators to inform each adult party of the purpose, nature, and method of the evaluation.

(4) The rule may allow courts to permit the parties to stipulate to an evaluator of their choosing with the approval of the court. The rule may require courts to provide general information about how parties can contact qualified child custody evaluators in their county.

(c) On or after January 1, 2005, no person shall be a child custody evaluator under this chapter, Section 730 of the Evidence Code, or Section 2032 of the Code of Civil Procedure unless the person meets one of the following criteria:

(1) He or she is licensed as a physician under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code and ~~devotes a substantial portion of his or her time to the practice of psychiatry.~~ is a board certified psychiatrist.

(2) He or she is licensed as a psychologist under Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.

1 (3) He or she is licensed as a marriage and family
2 therapist under Chapter 13 (commencing with Section
3 4980) of Division 2 of the Business and Professions Code.

4 (4) He or she is licensed as a clinical social worker
5 under Article 4 (commencing with Section 4996) of
6 Chapter 14 of Division 2 of the Business and Professions
7 Code.

8 (5) He or she has been proposed by or stipulated to by
9 the parties, or both, and consented to by the court.

10 ~~(d)~~

11 (6) *He or she is a court-connected evaluator who has*
12 *been certified by the court as meeting all of the*
13 *qualifications for court-connected evaluators as specified*
14 *by the Judicial Council pursuant to subdivision (b).*

15 (d) *Subdivision (c) shall not apply in any county in*
16 *which there is only one superior court judge.*

17 (e) A child custody evaluator who is licensed by the
18 Medical Board of California, the Board of Psychology, or
19 the Board of Behavioral Sciences shall be subject to
20 disciplinary action by that board for unprofessional
21 conduct, as defined in the licensing law applicable to that
22 licensee.

23 SEC. 2. Section 3111 of the Family Code is amended
24 to read:

25 3111. (a) *In any proceeding involving child custody*
26 *or visitation rights, the court may appoint a child custody*
27 *evaluator to conduct a child custody evaluation. The child*
28 *custody evaluation shall be conducted in accordance with*
29 *the standards adopted by the Judicial Council pursuant to*
30 *Section 3117. Where directed by the court, the*
31 *court-appointed child custody evaluator shall conduct a*
32 ~~*custody evaluation and file*~~ *shall file a written confidential*
33 *report on it his or her evaluation. At least 10 days before*
34 *any hearing regarding custody of the child, the report*
35 *shall be filed with the clerk of the court in which the*
36 *custody hearing will be conducted and served on the*
37 *parties or their attorneys. The report may be considered*
38 *by the court.*

39 (b) The report shall not be made available other than
40 as provided in subdivision (a).

1 (c) The report may be received in evidence on
2 stipulation of all interested parties and is competent
3 evidence as to all matters contained in the report.

4 SEC. 3. No reimbursement is required by this act
5 pursuant to Section 6 of Article XIII B of the California
6 Constitution because the only costs that may be incurred
7 by a local agency or school district will be incurred
8 because this act creates a new crime or infraction,
9 eliminates a crime or infraction, or changes the penalty
10 for a crime or infraction, within the meaning of Section
11 17556 of the Government Code, or changes the definition
12 of a crime within the meaning of Section 6 of Article
13 XIII B of the California Constitution.

